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10  
11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 **LARRY DEAN PADILLA,**

15 Plaintiff,

16 v.

17 **M. S. EVANS,**

18 Defendants.

CASE NO. C 06-1725 MJJ

**DECLARATION OF SCOTT  
J. FEUDALE IN SUPPORT OF  
DEFENDANT'S EX PARTE  
REQUEST FOR EXTENSION  
OF TIME TO FILE THEIR  
MOTION FOR SUMMARY  
JUDGMENT**

19  
20 I, SCOTT J. FEUDALE declare:

21 1. I am a Deputy Attorney General in the California Attorney General's Office, counsel of  
22 record for Defendant Evans (Defendant) in this matter. I am competent to testify to the matters  
23 set forth in this declaration, and if called upon to do so, I would and could so testify.

24 2. For the following reasons, Defendant respectfully requests a 90-day extension of time  
25 up to and including May 26, 2008, to file his motion for summary judgment:

26 a. Since the filing of his Amended Complaint, Plaintiff has failed to serve Defendant  
27 Mantel with a copy of the summons and Amended Complaint. In his Amended Complaint,  
28 Plaintiff alleges that Defendants Evans and Mantel violated his Eighth Amendment right to be

1 free from cruel and unusual punishment by failing to provide him with an adequate amount of  
 2 outdoor exercise during the month of January 2005. (Pl.'s Am. Compl. at 5-7.) In his Amended  
 3 Complaint, Plaintiff further alleges that Defendants Evans and Mantel violated his right to equal  
 4 protection in failing to afford inmate's housed in his prison yard the same access to outdoor  
 5 exercise as other inmates housed within the general population during the month of January  
 6 2005.<sup>1/</sup> (*Id.* at 7-9.) To my best knowledge, Defendant Mantel has not been served with a  
 7 summons in this case. Once Defendant Mantel is properly served and requests representation, I  
 8 will need to consult with my client regarding Plaintiff's allegations in this case. Because  
 9 Defendant Mantel has not been served, it would premature and a lack of judicial resources for  
 10 Defendant to file a motion for summary judgment at this time.

11 b. During the time period between the time the Court issued its Order Granting  
 12 Defendant's Motion to Dismiss and today, I have been managing a busy case load. During the  
 13 month of December 2007, I prepared for and participated in a settlement conference in the case  
 14 of *Lira v. Dir. of Corr., et al.*, United States District Court, Northern District of California, Case  
 15 No. C 00-0905 SI. During this time period, I have also prepared for and deposed one of  
 16 Plaintiff's expert witnesses in the *Lira* case; prepared a stipulated protective order governing the  
 17 handling of sensitive documents in the *Lira* case; prepared a motion for summary judgment  
 18 requesting the dismissal of thirty-four defendants in the *Lira* case; drafted responses to  
 19 interrogatories propounded in the case of *Alls v. Friedman, et al.*, United States District Court,  
 20 Northern Distruct of California, Case No. C 05-0901 PJH (PR); and filed an ex parte application  
 21 to dismiss in the case of *Crayton v. Scheerer, et al.*, Monterey County Superior Court, Case No.  
 22 M 77472. During the month of January 2008, I prepared and filed 50-page motion for summary  
 23 judgment requesting the dismissal of thirty-four defendants in the *Lira* case; and have defended  
 24

25 1. Plaintiff's Amended Complaint alleged Defendants have continually violated his Eighth  
 26 Amendment right to outdoor exercise and his Fourteenth Amendment right to equal protection in denying  
 27 him equal access to prison programs, religious services, recreational activities, therapy programs and  
 28 education classes from January 1, 2005 until present. (Pl.'s Am. Compl. 5-9.) However, the court dismissed  
 these claims on November 21, 2007, due to Plaintiff's failure to exhaust his administrative remedies with  
 respect to these issues. (*See Order Grant'g Defs.' Mot. Dismiss in Part; Grt'ng Pl.'s Mots. Add Exs.;*  
*Directing Defs.' File Mot. Summ. J. or Not. Such Mot. Not Warranted.*)

1 the deposition of an expert witness in the *Lira* case. I was also out of the office on vacation  
 2 during the week of December 31, 2007 through January 4, 2008. During the month of February  
 3 2008, I drafted a reply brief in the case of *Harrison v. Sample*, United States District Court,  
 4 Northern District of California, Case No. 07-0959 SI (PR); drafted an opposition to and appeared  
 5 at a hearing regarding the plaintiff's motion to vacate a court order in the *Crayton* case; and  
 6 prepared and filed a 25-page reply brief in the *Lira* case. Furthermore, during the month of  
 7 March 2008, I will be preparing for and trying the *Lira* case. The case, set for trial on March 24,  
 8 2008, currently contains fourteen defendants and is expected to last eight days.

9 c. Additionally, during the last three months, I have been actively involved in recruitment  
 10 for our office's summer intern program. This task has required me to review the applications of  
 11 numerous summer intern candidates, participate in weekly meetings discussing the qualifications  
 12 of numerous candidates, as well as conduct interviews.

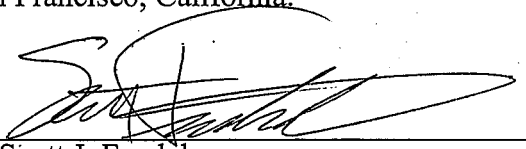
13 d. Lastly, because Plaintiff's alleges complex Eighth and Fourteenth Amendment claims  
 14 against Defendant, further discovery will need to be conducted, including taking Plaintiff's  
 15 deposition.

16 4. Because Plaintiff is currently incarcerated, he cannot easily be contacted for an  
 17 extension of time.

18 5. No previous extension of time has been sought regarding the filing of Defendant's  
 19 motion for summary judgment. This request is not made for the purpose of harassment or undue  
 20 delay or for any improper reason.

21 I declare under penalty of perjury that the forgoing is true and correct to the best of my  
 22 knowledge.

23 Executed February 25, 2008, at San Francisco, California.

24   
 25 Scott J. Feudale  
 26 Deputy Attorney General

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